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Human rights situations that require the Council's attention

Written statement* submitted by Amnesty International, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement, which is hereby circulated in accordance with Economic and Social Council resolution 1996/31.

[20 February 2018]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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PHILIPPINES: AMNESTY INTERNATIONAL CALLS FOR INDEPENDENT INVESTIGATION OF HUMAN RIGHTS VIOLATIONS COMMITTED IN THE CONTEXT OF THE 'WAR ON DRUGS'

Since President Duterte entered office on 30 June 2016, the Philippine government's 'war on drugs' has resulted in thousands of extrajudicial executions, with the victims overwhelmingly coming from poor and marginalised communities. Given the failure of the Philippine authorities to effectively investigate these crimes, Amnesty International calls for immediate action from the Human Rights Council ('the Council') to initiate an independent investigation in order to establish the facts, address impunity and take steps towards providing justice for victims.

Unlawful killings committed in the context of the 'War on Drugs'

Since June 2016, the Philippine National Police (PNP) and unknown armed persons – at least some of whom are believed to be linked to, and often paid by, the PNP1 – have carried out killings of thousands people suspected of using and selling drugs, including dozens of children. Human rights organisations, including Amnesty International, estimate that as many as 12,000 have been killed to date, in contrast to a figure of 4,000 cited by authorities. Amnesty believes that these killings of alleged drug offenders, which appear to be systematic, planned and organised by the authorities, meet the threshold of crimes against humanity and require immediate action by the international community.2

Over the course of the government's campaign, Amnesty International has documented extensive evidence of human rights violations, in particular extrajudicial executions. Interviews with family members and witnesses have repeatedly contested police descriptions of how people were killed. In many instances, police have tried to cover up unlawful killings by planting evidence at crime scenes and falsifying incident reports.3 Those killed have overwhelmingly been from the urban poor. Our research has also found strong evidence of links between state authorities and unidentified armed persons and under the table payments to police to kill suspects4 and that 'drug watch lists' used to identify people suspected of using and selling drugs, have acted as unsubstantiated blacklists, in violation of the right to due process.5

Following the suspension of police operations in October 2017, killings decreased, but did not stop. Meanwhile, President Duterte's hateful rhetoric has continued. As of February 2018, police have returned to full-scale operations. Amnesty International is deeply concerned that the recent resumption of these operations6, coupled with the prevailing climate of impunity and lack of accountability, will result in further extrajudicial executions.

Related human rights violations

Amnesty International research has found that the anti-drug campaign has also undermined the right to the highest attainable standard of physical and mental health, as it has rendered essential drug testing and treatment services

1 https://www.amnesty.org/en/documents/asa35/5517/2017/en/, p.34.

2 https://www.amnesty.org/en/latest/news/2017/12/philippines-icc-must-examine-war-on-drugs-crimes/.

3 https://www.amnesty.org/en/documents/asa35/5517/2017/en/, p. 21, 30.

4 Ibid, p.29.

5 Ibid, p.20.

6 https://www.amnesty.org/en/latest/news/2018/01/philippines-hold-police-to-account-for-unlawful-killings-in-war-on-drugs/.

inaccessible or risky, and forced many people who use drugs into involuntary and inadequate rehabilitation programmes.7

While neither the use nor sale of drugs is confined to poor neighbourhoods, police operations have overwhelmingly targeted the most impoverished segments of society, making the so-called 'war on drugs' a war on the poor. Family members of drug related killings often linked their loved one's use of drugs, or involvement in the drug trade, to poverty and a lack of opportunities. In many cases, deaths have removed breadwinners from families already in an economically precarious situation, pushing them deeper into poverty.

Drug-related killings have created a pervasive climate of fear in poor communities, with families of victims unable to seek justice, and many forced into hiding due to fear of further attacks.

ATTACKS AGAINST Human rights Defenders

Human rights defenders and civil society organisations have faced intimidation and obstruction in their attempts to investigate and raise concerns about the serious human rights violations being committed in the country.
In November 2016, President Duterte threatened to 'behead' and 'kill' human rights defenders that criticise the country's record.8 In August 2017, he told the police to shoot human rights activists who were 'obstructing justice,' or to charge them with conspiracy.9

In February 2017, Senator Leila de Lima, a former Secretary of Justice and former Chair of the Philippine Commission on Human Rights, was arrested on politically-motivated charges of drug trafficking. Her arrest followed a targeted campaign by President Duterte and his allies to link her to the drug trade following her outspoken criticism of the 'war on drugs', and attempts to investigate unlawful killings as Chair of the Senate Committee on Justice and Human Rights. She has been detained since, and faces between 12 years and life in prison if convicted.

Other human rights defenders and even a UN expert have also come under attack. Jose Luis 'Chito' Gascon, the current Chair of the Commission on Human Rights of the Philippines (CHR)10, and Agnes Callamard, the UN Special Rapporteur on extrajudicial, summary or arbitrary executions, have both been subjected to vicious verbal tirades and threats by the President.11

LACK OF ACCOUNTABILITY

To date, there have been no credible investigations into the widespread and systematic violations committed in the context of the 'war on drugs'. Two probes in the Senate set up to examine what is described in the Philippines as extrajudicial killings ended with accusations of whitewashing. Only a handful of police are facing charges related to anti-drug operations, in cases involving high profile killings. To date, not one police officer is known to have been convicted for offences involving human rights violations in in the anti-drug campaign.

The authorities have not only refused to investigate extrajudicial executions and prosecute those responsible for them, they have also refused access to relevant UN Special Procedures – notably the Special Rapporteur on extrajudicial, summary or arbitrary executions. The Office of the High Commissioner for Human Rights recently expressed concern that President Duterte had threatened to slap Ms. Callamard if she investigates him for alleged extrajudicial killings.12

7 https://www.amnesty.org/en/documents/asa35/5517/2017/en/, p.51.

8 https://www.amnesty.org/en/latest/news/2017/06/philippines-dutertes-bloody-and-lawless-year-in-power/.

9 https://www.rappler.com/nation/178968-duterte-probe-shoot-human-rights-advocates.

10 https://www.amnesty.org/en/documents/asa35/7566/2017/en/.

11 http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22421&LangID=E.

12 Ibid.

Of most concern, however, is the fact that the killings have been explicitly encouraged by the highest levels of government. The President has continually reassured policemen that they would not be investigated and has encouraged individuals to personally act against those involved in drugs.

Meanwhile, high-ranking government officials have denied to the international community that such violations have taken place. In May 2017, for example, the Philippine delegation to the Universal Periodic Review, led by Secretary of Foreign Affairs Alan Cayetano, defended the 'war on drugs' and claimed that no wave of killings had occurred. At the 36th session of the Council in September 2017, the government rejected all recommendations relating to its approach to drugs, including on extrajudicial executions.

On 8 February 2018, the International Criminal Court (ICC) announced that it was opening a preliminary examination into possible crimes under international law in the 'war on drugs'. Amnesty International welcomes this announcement, but believes that a UN investigation remains warranted, given that the ICC's preliminary examination will not constitute a full investigation into the situation.

RECOMMENDATIONS

In light of the above concerns, Amnesty International calls on the Council to take action to address this situation, and take steps towards ending impunity for the serious human rights violations and crimes against humanity. In the absence of independent, impartial and efficient investigations at national level, and in light of the refusal of the Philippines to allow access to the relevant Special Procedures, the Council must launch its own investigation into extrajudicial executions and other human rights violations committed in the context of anti-drug operations, as a step towards ending impunity, preventing further killings, delivering justice to victims, and ensuring reparations.

Amnesty International also calls upon members and observers of the Council to urge the Government of the Philippines to:

- Immediately order an end to all extrajudicial, summary and arbitrary executions during anti-drug operations and ensure that the police adhere to international human rights law and standards.
- End all calls encouraging, justifying or excusing violence against alleged drugs offenders, and recant previous use of such language.
- Initiate prompt, independent, impartial and effective investigations into all extrajudicial executions and ensure that all those responsible for offences involving human rights violations and abuses – including those with command and other superior responsibility – are brought to justice in fair proceedings;
- Promote a clear understanding of the complexity of drug dependence and advocate for a drug policy based on the protection of health and human rights.
- End attacks on human rights defenders, and ensure that human rights defenders, journalists and activists can carry out their work in an enabling environment and without fear of reprisals.
- Fully cooperate with the Special Procedures, as expected of a member of the Council, including by facilitating visits requested by the: Special Rapporteur on extrajudicial, summary or arbitrary executions; Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; Special Rapporteur on extreme poverty and human rights; and Special Rapporteur on the situation of human rights defenders.13

13 These are the mandates we deem to be most relevant in the context of the violations we have documented in our research on the 'war on drugs.'